

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

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RECEIVED  
U.S. DISTRICT COURT  
S.D. OF FLORIDA  
MIAMI

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
JOSEPH SPITALERI, )  
 )  
Defendant. )  
\_\_\_\_\_ )

CASE NO. 00-6309-CR-SEITZ

**DEFENDANT'S OBJECTIONS TO THE  
PRE-SENTENCE INVESTIGATION REPORT**

Defendant, JOSEPH SPITALERI, by and through undersigned counsel, files his Objections to the Pre-Sentence Investigation Report, and, as grounds therefore, states as follows:

**Paragraph 13:** Objection. Defendant's conduct occurred in South Florida, not New York. Moreover, Defendant's only partner was John Pacaro.

**Paragraph 14:** Defendant and Pacaro formed only the following three corporations: Forex Financial Group, World Wide Exchange Corporation and International Forex Exchange.

**Paragraph 16:** Objection. The Government's current estimate of the fraud involved sub judice is approximately \$2,000,000.00.<sup>1</sup>

**Paragraph 18:** Objection. Pacaro, not Mamone, introduced Chiusano to Defendant.

**Paragraph 20:** Objection. Chiusano, not Mamone, assisted Spitaleri in negotiating the checks listed herein.

**Paragraph 27:** Objection. Defendant is responsible for laundering approximately

<sup>1</sup> The Government is still tabulating this figure. Upon its final analysis, Defendant agrees he

\$2,000,000.00 in fraud proceeds during this offense. Moreover, Spitaleri and Pacaro formed three corporations. The Government and Defendant have agreed that Spitaleri should be subject to a three (3) level increase pursuant to U.S.S.G. § 3B1.1(b).

**Paragraph 35:** Objection. Defendant's offense level should be increased by five (5) or six (6) levels (since the value of the funds was approximately \$2,000,000.00) pursuant to U.S.S.G. § 2S1.1(b)(2)(F) or (G), pending the Government's final analysis.

**Paragraph 36:** Objection. The Government and Defendant have agreed that Defendant's offense level should be increased by three (3) levels pursuant to U.S.S.G. § 3B1.1(b).

**Paragraph 39:** Objection. Defendant's adjusted offense level should be either 31 or 32.

**Paragraph 43:** Objection. Defendant's total offense level should be either 28 or 29.

**Paragraph 74:** Although Defendant presently has his drug problem under control, Defendant respectfully requests that this Court sentence him pursuant to 18 U.S.C. §3621 and order him to complete a substance abuse program while he is incarcerated in the Bureau of Prisons.

**Paragraph 78:** Defendant did not operate Trump Financial nor did he operate International Mercantile Corporation (IMC). Moreover, Defendant did work in the office located in Hallandale, but Joe Finkelstein "ran the day to day operations of the business."

**Paragraph 96:** Objection. Defendant's plea of guilty in his pending case before Judge Zloch (Case No. 6206) is counted as his "second criminal history point." Accordingly, Defendant respectfully requests this Court sentence him in the criminal history category I range. U.S.S.G. § 4A1.3; U.S.S.G. § 5H1.8; United States v. Orozco, 121 F.3d 628 (11<sup>th</sup> Cir. 1997); United States v. Delgado-Reyes, 245 F.3d 20 (1<sup>st</sup> Cir. 2001); United States v. Wilkes, 130 F.Supp.2d 222 (D. Mass.

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should be sentenced pursuant to U.S.S.G. § 251.1(b)(2)(F) or (G).

2001). Based on a total offense level of 28 or 29 and a criminal history category of I, the guideline imprisonment range is 78-97 months or 87-108 months.

**Paragraph 105:** Defendant anticipates the Government will file a motion for downward departure pursuant to U.S.S.G. § 5K1.1. Moreover, Defendant believes a modest downward departure pursuant to U.S.S.G. §§ 5H1.6 (Family Ties and Responsibilities) is applicable and a modest downward departure pursuant to 5K2.0 (Extraordinary Acceptance of Responsibility) may be warranted.

Respectfully submitted,

HIRSCHHORN & BIEBER, P.A.  
Attorneys for Defendant SPITALERI  
2600 Douglas Road, Penthouse One  
Coral Gables, FL 33134  
Tel: (305) 445-5320 / Fax: (305) 446-1766

By:   
BRIAN H. BIEBER  
Florida Bar No. 8140

JOEL HIRSCHHORN  
Florida Bar No. 104573

**CERTIFICATE OF SERVICE**

5<sup>th</sup> I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed this  
day of November, 2001, to Brian McCormick, Esq. and Diana Fernandez, Esq.,  
Assistant United States Attorneys, United States Attorney's Office, Central Criminal Section II,  
500 East Broward Boulevard, Fort Lauderdale, FL 33394-3002, and to all parties on the attached  
Service List.



BRIAN H. BIEBER

**SERVICE LIST**

David Rothman, Esq.  
First Union Financial Ctr.  
200 S. Biscayne Blvd.  
Suite 2690  
Miami, FL 33131  
(counsel for John Mamone)

Emmanuel Perez, Esq.  
2121 Ponce de Leon Blvd.  
Suite 290  
Coral Gables, FL 33134  
(Counsel for Joseph Silvestri)

Michael Tarre, Esq.  
2 So. Biscayne Blvd.  
Suite 3250  
Miami, FL 33131  
(Counsel for Jeffrey Bass)

James Benjamin, Esq.  
1 Financial Plaza, Suite 1615  
Ft. Lauderdale, FL 33394  
(Counsel for Mark Carattini)

Jeffrey M. Harris, Esq.  
One East Broward Blvd.  
Suite 1500  
Ft. Lauderdale, FL 33301  
(Counsel for David Bell)

Steve Kreisberg, Esq.  
3250 Mary St.  
Suite 400  
Coconut Grove, FL 33133  
(Counsel for Peggy Preston)

John Howes, Esq.  
633 S.E. 3<sup>rd</sup> Ave., Suite 4F  
Ft. Lauderdale, FL 33302  
(Counsel for Fred Morgenstern)

Donald R. Spadaro, Esq.  
1000 S. Federal Highway  
Suite 103  
Ft. Lauderdale, FL 33316  
(Counsel for Julius Chiusano)

John F. Cotrone, Esq.  
509 S.E. 9<sup>th</sup> Street, Suite 1  
Ft. Lauderdale, FL 33316  
(Counsel for Frederick Scarola)

Peter Raben, Esq.  
2665 S. Bayshore Dr.  
Suite 1206  
Coconut Grove, FL 33133  
(Counsel for Paul DiFilippi)

Jon May, Esq.  
200 East Broward Blvd.  
Suite 1210  
Ft. Lauderdale, FL 33301  
(Counsel for Charles Clay)

Philip R. Horowitz, Esq.  
12651 S. Dixie Highway  
Suite 328  
Miami, FL 33156  
(Counsel for Mark Weiss)

Ana M. Jhones, Esq.  
Bayside Plaza, Suite 625  
330 Biscayne Blvd.  
Miami, FL 33132  
(Counsel for David  
Morgenstern)

Brian L. Tannenbaum, Esq.  
First Union Financial Center  
200 South Biscayne Blvd.  
Suite 2690  
Miami, FL 33131  
(Counsel for Michael Buccinna)

Charles Wender, Esq.  
190 W. Palmetto Park Road  
Boca Raton, FL 33432  
(Counsel for Giuseppe Bellitto)

Neil M. Nameroff, Esq.  
100 S.E. 2<sup>nd</sup> Ave., Suite 3350  
Miami, FL 33131  
(Counsel for Anson Klinger)

Richard Hamar, Esq.  
Maria Hamar, Esq.  
2437 Briarcrest Rd.  
Beverly Hills, CA 90210  
(Counsel for Charles Clay)

David G. Vinikoor, Esq.  
420 S.E. 12<sup>th</sup> Street  
Ft. Lauderdale, FL 33316  
(Counsel for Jacolyn Baruch)